

REMARKS

This amendment is in response to the Final Office Action dated January 5, 2009 (the "Office Action"). Claims 1-4, 6-7, 9-12, 14, and 23-31 are pending in the application. Claims 5, 8, 13, and 15-22 were previously cancelled without prejudice or disclaimer. Claims 1, 9, 23, and 28 have been amended. No new matter has been added. Support the claim amendments can be found at paragraph [0033] of the specification.

Claims 1-4, 6-7, 9-12, 14, 23-26, and 28-31 are allowable

The Office has rejected claims 1-4, 6-7, 9-12, 14, 23-26, and 28-31, under 35 U.S.C. §103(a), at page 3 of the Office Action, as being unpatentable over U.S. Patent No. 6,195,543 ("Granberg"), in view of U.S. Patent No. 7,068,997 ("Benco"), in view of U.S. Published Application No. 2005/0032505 ("Himelhoch"), and further in view of U.S. Patent No. 7,072,640 ("Bernhart"). Applicants respectfully traverse the rejections.

The cited portions of the above-cited references do not disclose or suggest the specific combination of claim 1. For example, the cited portions of the above-cited references fail to disclose or suggest transmitting a warning message to a wireless telephone for display on a display of the wireless telephone during an in-progress telephone call when the in-progress telephone call exceeds at least one subscriber-set threshold condition of a billing plan, as in claim 1.

The Office admits that Granberg does not specifically disclose transmitting a warning message to the wireless telephone in response to the in-progress telephone call exceeding at least one subscriber-set threshold billing condition. *See* Office action, p. 5. Therefore, the cited portions of Granberg fail to disclose or suggest transmitting a warning message to a wireless telephone for display on a display of the wireless telephone during an in-progress telephone call when the in-progress telephone call exceeds at least one subscriber-set threshold condition of a billing plan, as in claim 1.

Further, the Office admits that Benco does not specifically disclose transmitting a warning message to the wireless telephone for display on the display of the wireless telephone in response to the telephone exceeding at least one subscriber-set threshold billing condition. *See* Office action, p. 5. Therefore, the cited portions of Benco do not disclose or suggest transmitting a warning message to a wireless telephone for display on a display of the wireless telephone

during an in-progress telephone call when the in-progress telephone call exceeds at least one subscriber-set threshold condition of a billing plan, as in claim 1.

Further, the Office admits that Himelhoch does not specifically disclose transmitting a warning message to the wireless telephone in response to the telephone exceeding at least one subscriber-set threshold billing condition. *See* Office action, p. 5. Therefore, the cited portions of Himelhoch do not disclose or suggest transmitting a warning message to a wireless telephone for display on a display of the wireless telephone during an in-progress telephone call when the in-progress telephone call exceeds at least one subscriber-set threshold condition of a billing plan, as in claim 1.

In contrast to claim 1, Bernhart discloses a device whereby a user presets threshold costs for communications sessions and the device audibly alerts the user when the preset threshold costs have been reached or surpassed. *See* Bernhart, Column 3, lines 25-42. Bernhart does not disclose or suggest transmitting a warning message to a wireless telephone for display on a display of the wireless telephone during an in-progress telephone call when the in-progress telephone call exceeds at least one subscriber-set threshold condition of a billing plan, as in claim 1. Instead, Bernhart discloses a controller directing the user interface to generate an audible tone or to create a vibratory motion. *See* Bernhart, Column 8, lines 1-17. Bernhart also discloses alerting a user by altering the backlighting of the display. *See* Bernhart, Column 8, lines 1-14. The backlighting of the display alerts a user without interrupting the visual display of the terminal with a visual alert when the user is in the midst of an ongoing game session with another user. *See* Bernhart, Column 3, lines 25-42. The backlighting of the display does not overwrite the display, and the user can continue to utilize the display without interruption. *See* Bernhart, Column 8, lines 1-17. Therefore, the cited portions of Bernhart do not disclose or suggest transmitting a warning message to a wireless telephone for display on a display of the wireless telephone during an in-progress telephone call when the in-progress telephone call exceeds at least one subscriber-set threshold condition of a billing plan, as in claim 1. Therefore, the cited portions of the above-cited references, individually or in combination, fail to disclose or suggest at least one element of claim 1. For at least this reason, claim 1 is allowable.

Further, Applicants respectfully submit that if the Bernhart device were modified to alert a user by overwriting the display, such modification would render the Bernhart device inoperable for its intended purpose of alerting a user without interrupting the terminal visual display with a

visual cue. *See* Bernhart, Column 3, lines 25-42. According to the MPEP, “If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” *See* MPEP 2143.01. For at least this additional reason, claim 1 is allowable.

Hence, claim 1 is allowable. Claims 2-4 and 6-7 depend from claim 1, and are allowable, at least by virtue of their dependency from claim 1.

Claims 9-12 and 14 are Allowable

The cited portions of Granberg, Benco, Himelhoch, and Bernhart fail to disclose or suggest the specific combination of claim 9. For example, the cited portions of the above-cited references do not disclose or suggest a display to display a warning message during an in-progress telephone call when the in-progress telephone call exceeds at least one subscriber-set threshold condition of a billing plan, as in claim 9.

As noted above, the cited portions of Granberg, Benco, Himelhoch, and Bernhart do not disclose or suggest transmitting a warning message to a wireless telephone for display on a display of the wireless telephone during an in-progress telephone call when the in-progress telephone call exceeds at least one subscriber-set threshold condition of a billing plan. Therefore, the cited portions of the above-cited references fail to disclose or suggest a display to display a warning message during an in-progress telephone call when the in-progress telephone call exceeds at least one subscriber-set threshold condition of a billing plan, as in claim 9. Hence, claim 9 is allowable. Claims 10-12 and 14 depend from claim 9, and are allowable, at least by virtue of their dependency from claim 9.

Claims 23-27 are Allowable

The cited portions of Granberg, Benco, Himelhoch, and Bernhart fail to disclose or suggest the specific combination of claim 23. For example, the cited portions of Granberg, Benco, Himelhoch, and Bernhart do not disclose or suggest a wireless service provider to transmit a first message to a wireless telephone for display of the first message during the in-progress telephone call, where the first message includes a warning message when the in-progress telephone call exceeds at least one subscriber-set threshold condition of a billing plan, as in claim 23.

As noted above, the cited portions of Granberg, Benco, Himelhoch, and Bernhart do not disclose or suggest transmitting a warning message to a wireless telephone for display on a

display of the wireless telephone during an in-progress telephone call when the in-progress telephone call exceeds at least one subscriber-set threshold condition of a billing plan. Therefore, the cited portions of the above-cited references fail to disclose or suggest a wireless service provider to transmit a first message to a wireless telephone for display of the first message during the in-progress telephone call, where the first message includes a warning message when the in-progress telephone call exceeds at least one subscriber-set threshold condition of a billing plan, as in claim 23. Hence, claim 23 is allowable. Claims 24-27 depend from claim 23, and are allowable, at least by virtue of their dependency from claim 23.

Claims 28-31 are Allowable

The cited portions of Granberg, Benco, Himelhoch, and Bernhart fail to disclose or suggest displaying a first real-time, cost-per-unit-time billing rate, a first billing rate description and a warning message on a display of the wireless telephone during the in-progress telephone call, as in claim 28.

As noted above, the cited portions of Granberg, Benco, Himelhoch, and Bernhart do not disclose or suggest transmitting a warning message to a wireless telephone for display on a display of the wireless telephone during an in-progress telephone call when the in-progress telephone call exceeds at least one subscriber-set threshold condition of a billing plan. Therefore, the cited portions of the above-cited references fail to disclose or suggest displaying a first real-time, cost-per-unit-time billing rate, a first billing rate description and a warning message on a display of the wireless telephone during the in-progress telephone call, as in claim 28. Hence, claim 28 is allowable. Claims 29-31 depend from claim 28, and are allowable, at least by virtue of their dependency from claim 28.

Claim 27 is Allowable

The Office has rejected claim 27 under 35 U.S.C. § 103(a), as being unpatentable over Granberg in view of Benco, and further in view of Himelhoch. *See* Office Action, p. 16. Applicants respectfully traverse the rejection.

As noted above, the cited portions of Granberg, Benco, and Himelhoch fail to disclose or suggest at least one element of claim 23, from which claim 27 depends. Therefore, claim 27 is allowable, at least by virtue of its dependence from claim 23.

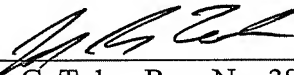
CONCLUSION

Applicants have pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the cited portions of the references applied in the Final Office Action. Accordingly, Applicants respectfully request reconsideration and withdrawal of each of the objections and rejections, as well as an indication of the allowability of each of the pending claims. The Examiner is invited to contact the undersigned attorney at the telephone number listed below if such a call would in any way facilitate allowance of this application.

The Commissioner is hereby authorized to charge any fees, which may be required, to credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

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Date



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